

ZONING BOARD OF APPEALS IPSWICH, MASSACHUSETTS

Meeting Minutes
March 17, 2016

Pursuant to a written notice posted by the Town Clerk and delivered to all Board members, the Ipswich Zoning Board of Appeals held a meeting on Thursday March 17, 2016 at 7:30 p.m. in room C at the Town Hall. Members attending were Chairman Robert Gambale, Benjamin Fierro, Roger LeBlanc and Associate Members Robert Tragert.

Also, Administrative Assistant to the Board Marie Rodgers.

Lewis Vlahos, William Page and Becky Gayton were not present.

Citizen Queries: None.

Announcements and Continuations

Chairman announced that the public hearing for **84 High Street** and **3 Howard Street** would be continued to the **April 21, 2016** meeting at the request of the applicants; and **39 Summer Street** Matt Diana withdrew his Petition.

Public Hearings:

16 Hillside Road. (Map 24A Lot 33) Chairman Gambale read the legal notice and opened the public hearing at 7:35 p.m. **Cheryl Gresek** and her Attorney James Moore were present to request a second Appeal of the Building Inspector's decision pursuant to XI.G and II.B of the Ipswich Zoning Protective Bylaw and revoke the building permit No. R-16-0005 for the construction of a single family dwelling and require a Variance for increased nonconformity of the proposed reconstruction of the dwelling.

Darrell and Joann Seppala owners of 16 Hillside Road were present represented by Attorney Leonard Femino.

Chair notified the Petitioner of four members in attendance, a unanimous vote would be required and offered options to proceed or continue to next month's meeting where a full Board would be available to vote. Attorney Moore elected to move forward. Members sitting were Mr. Gambale, Mr. LeBlanc, Mr. Fierro, Mr. Tragert.

Attorney Moore cited the definition of 'floor area' in the Bylaw and opined that the Building Inspector failed to include both the garage storage area and the 6" wall system when calculating the total floor area of the proposed single-family dwelling. He submitted a letter dated 1/19/16 from Steven Ozahowski SRA and three page memo and two pages of plans. (hereby incorporated by reference)

Attorney Leonard Femino representing the owners of 16 Hillside Road spoke to the previous appeal, now in land court, the process this evening is procedural, in order to be on proper footing in land court.

Discussion was held regarding the calculations for square footage of the storage space and the aggregate gross area of all floors within a principal building. The Board reviewed the definition of floor area.

Building Inspector Tony Torra spoke to his actions calculating the floor area and opined that the Seppala's cooperated with his guidance.

JoAnn Seppala submitted a six page overview dated March 2016 and explained the reasoning for a separate storage space due to the lack of space to place a shed. (hereby incorporated by reference)

Attorney Moore argued that the 'use' is not the issue, that the proposed new single-family dwelling exceeds the maximum floor area ratio of 30% for buildings in the district. He argued that if the Building Inspector had properly calculated the floor area ratio of the building, it would have been 34.53%, thereby requiring the issuance of a variance from this Board.

Attorney Leonard Femino rejected that statement and cited a SJC case from 2011; the referenced plan can be attached and become part of the record, as recorded at ROD.

Further discussion was held regarding the definition of gross floor area and aggregate floor area, the garage work shop is adjacent to the garage to be used exclusively for storage, is unheated and a non-habitable area, therefore excluded by the Building Inspector when he calculated the maximum floor area ratio of the proposed single-family.

Dorothy Butcher resident at 8 Capeview Rd spoke in support for the people trying to build the house at 16 Hillside Rd.

As there were no further comments from abutters or others; Mr. Fierro moved to close the public hearing, Mr. Tragert seconded, the motion passed with a unanimous vote.

The Board found the definition of "Floor Area" only considers the interior space of a building when calculating the aggregate gross area. Consequently, the Board concurred that the Building Inspector properly excluded the 6" wall system when he calculated the maximum floor area ratio of the proposed single-family dwelling.

MOTION:

Mr. Fierro moved to deny the Petition of the Petitioner to overturn the decision of the Building Inspector to issue a permit and uphold the decision to grant the building permit for the construction of a single family dwelling. Mr. LeBlanc seconded, the vote was unanimous; Mr. Gambale, yes; Mr. LeBlanc, yes; Mr. Fierro, yes, Mr. Tragert, yes.

In accordance with the revised Open Meeting Law effective July 1, 2010 all documents and exhibits used by the Appeals Board in an open session follows: Petition and associated documentation

Approval of Minutes –

MOTION: Mr. Gambale moved to approve meeting minutes of 2/18/2016 with minor edits. Mr. Fierro seconded, the motion passed unanimously. (*meeting minutes hereby incorporated by reference*)

Adjourn

MOTION: Mr. Fierro moved, Mr. Tragert seconded and voted unanimously to adjourn at 8:30 p.m.

Respectfully submitted,
Marie Rodgers
Administrative Assistant

These minutes were approved by the Board on April 21, 2016.